Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Revision of the Commission's Rules	)	
To Ensure Compatibility with Enhanced	)	
911 Emergency Calling Systems	)	CC Docket No. 94-102
	)	
Petition of City of Richardson, Texas	)	

PETITION FOR CLARIFICATION AND RECONSIDERATION

Jim Nixon
Robert A. Calaff
T-Mobile USA, Inc.
401 9th Street, N.W.
Suite 550
Washington, DC 20004
(202) 654-5900

John T. Nakahata
Karen L. Gulick
Harris, Wiltshire & Grannis, LLP
1200 18th Street, N.W.
Suite 1200
Washington, DC 20036
(202) 730-1300
Counsel to T-Mobile USA, Inc.

February 21, 2003

SUMMARY

This proceeding has been an on-going effort to clearly and effectively define the components of a "valid" request by a Public Safety Answering Point that triggers a wireless carrier's obligation to provide E911 service within the six-month time period specified in Section 20.18(j) of the Commission's rules. The Commission has endeavored to set criteria that best serve its objective: promoting delivery of E911 service while ensuring that neither carriers nor PSAPs expend significant resources only to discover that the other party is not fully E911 capable at the end of the six-month period.

Unfortunately the rules adopted in the Commission's most recent order could frustrate these worthy objectives unless further clarified. In addition, the rules were adopted without regard for required notice and comment procedures – procedures that if followed, could have aided the Commission in fashioning better-reasoned rules. Accordingly, T-Mobile requests that the Commission clarify and consider portions on its *Richardson Recon Order.*

The Commission's ruling in the *Richardson Order* – that a PSAP "is capable" of receiving and utilizing the service within the meaning of Section 20.18(j)(1) if it meets certain criteria "predictive" of its preparedness at the end of the six-month implementation period – begged a new question. What is the wireless carrier's obligation at the end of the six-month period if the predictive criteria do not pan out and the PSAP is *not*, in fact, ready to receive and utilize E911 data elements? The Commission's decision not to require a PSAP to supply documentation supporting validity simultaneously with its request begged a second question. How should a PSAP's delay in producing requested documentation affect the carrier's six-month implementation timetable? The *Richardson Recon Order* was the Commission's response to these questions. Because certain aspects of these questions remain unanswered, T-Mobile requests that the Commission clarify the following:

- Certification should apply to all requests that cannot be completed within six months due to PSAP lack of readiness. Once the PSAP advises the carrier that it is capable of receiving and utilizing the E911 data elements, the carrier should have ninety days to complete implementation.

- A PSAP's failure to provide necessary information is an appropriate subject for wireless carrier certifications.

- Wireless carriers seeking certification should be allowed to defer implementation steps until after the PSAP is ready if the carrier would otherwise have to perform those implementation steps twice.

- Wireless carriers seeking certification should be able notify the requesting entity, which may or may not be the affected PSAP.

- Tolling should be available for current pending requests as well as future requests. Alternatively, wireless carriers should be allowed to renew pending requests for *Richardson* documentation, and then toll the running of the six-month

implementation period for all PSAP requests for which complete *Richardson* documentation is not supplied fifteen days thereafter.

- Tolling should be permitted regardless of when the wireless carrier requests the *Richardson documentation.*

- Tolling should be available when the carrier cannot complete implementation within six months due to third party implementation issues.

TABLE OF CONTENTS

Page

I. INTRODUCTION 1

II. BACKGROUND 4
A. The City of Richardson's Petition 4
B. Petitions for Reconsideration 5
C. The Richardson Reconsideration Order 7

III. THE CERTIFICATION PROCESS MUST BE CLARIFIED TO FUNCTION AS INTENDED 8
A. Certification Should Apply to All Requests that Cannot Be Completed Within Six Months Due to PSAP Lack of Readiness 9
B. The Commission Should Clarify that Certification Procedures Apply to All PSAP Failures to Complete Steps Necessary to An E911 Deployment 11
C. Certification Should Not Require Completion of Implementation Steps That Would Have to Be Redone After A PSAP Is Ready 12
D. Carriers Should Be Permitted to Serve the Requesting Entity Rather Than the "Affected PSAP" When A PSAP Has Designated A Representative 14
E. The Notice of Intent to File and the Three-Week Pre-Filing Objection Period Serve No Purpose Because PSAPs May Object After Certification Is Filed 15
F. The Commission Must Rule On Disputed Certifications 16

IV. WHILE INITIAL TOLLING DURING A PSAP'S PRODUCTION OF DOCUMENTATION IS EQUITABLE, THE RULE AS ADOPTED DOES NOT SERVE ITS STATED PURPOSE 16
A. The Commission Should Permit Tolling for Current Pending Requests 16
B. The Commission Should Permit Tolling Regardless of When the Wireless Carrier Requests the *Richardson* Documentation 18
C. The Commission Should Clarify Treatment of Partial and Insufficient Responses 20

V. THE COMMISSION SHOULD PERMIT TOLLING WHEN THE CARRIER CANNOT COMPLETE IMPLEMENTATION WITHIN SIX MONTHS DUE TO THIRD PARTY IMPLEMENTATION ISSUES 20

VI. THE NEW RULES ARE PROCEDURALLY INFIRM BECAUSE THEY WERE ADOPTED WITHOUT NOTICE AND COMMENT 22
A. Because the New Rules Affect Rights and Obligations, They Cannot Be Deemed "Clarifications" Merely Illustrative of Original Intent 22
B. The Commission Gave No Notice of the Changes Ultimately Adopted 23

VII. CONCLUSION 25

I. INTRODUCTION

T-Mobile USA, Inc. ("T-Mobile," formerly VoiceStream Wireless Corporation), petitions the Commission to clarify and reconsider portions of its November 26, 2002 *Richardson Reconsideration Order*.[1] First, as adopted, significant aspects of the rules could frustrate their stated purpose, especially if interpreted without regard to operational difficulties in implementation. Second, the initial tolling provisions should not be limited to new requests, but should be available for pending requests. Finally, the rules were adopted without regard for required notice and comment procedures – procedures that if followed, could have aided the Commission in fashioning better-reasoned rules.

This proceeding, originated by a Petition filed by the City of Richardson, has been an on-going effort to clearly and effectively define the components of a "valid" request by a Public Safety Answering Point ("PSAP"), so as to trigger a wireless carrier's obligation to provide E911 service to that PSAP within the six-month time period specified in Section 20.18(j) of the Commission's rules. In the *Richardson Order*[2] and *Richardson Recon Order*, the Commission endeavored to set criteria that best serve its objective: promoting delivery of E911 service while ensuring that neither carriers nor PSAPs expend resources for implementation only to discover that the other party is not fully E911 capable at the end of the six-month period. The Commission has recognized that wireless E911 implementation depends on the coordination and cooperation of multiple parties – not simply the PSAP and the wireless carrier, but also the LEC and, in many cases, a separate emergency services provider operating the ALI database.[3] In

---

1 *Petition of City of Richardson*, Order on Reconsideration, CC Docket No. 94-102, 17 FCC Rcd 24282 (2002) ("*Richardson Recon Order*").

2 *Petition of City of Richardson*, Order, CC Docket No. 94-102, 16 FCC Rcd 18982 (2001) ("*Richardson Order*").

3 In his report to the Commission, Dale Hatfield called E911 "an extremely complex undertaking" because of "the total number of stakeholders involved, the complexity of the inter-relationships among the

selecting definitional criteria for a "valid request," the Commission attempted to balance the obligations of the relevant parties.[4] Unfortunately the Commission's most recent order could frustrate these worthy objectives unless further clarified.

The Commission's ruling in the *Richardson Order* – that a PSAP "is capable" of receiving and utilizing the service within the meaning of Section 20.18(j)(1) if it meets two criteria "predictive" of its preparedness at the end of the six-month implementation period – begged a new question. What is the wireless carrier's obligation at the end of the six-month period if the predictive criteria do not pan out and the PSAP is *not*, in fact, ready to receive and utilize E911 data elements? The Commission's decision not to require a PSAP to supply documentation supporting validity simultaneously with its request begged a second question. How should a PSAP's delay in producing requested documentation affect the carrier's six-month implementation timetable?[5]

The *Richardson Recon Order* was the Commission's response to these questions. It intended to set forth effective and equitable procedures for PSAPs and carriers to follow where the PSAP's preparedness is questioned either at the initiation of a request or at the end of the six-month implementation period. Yet, in some respects, these questions remain unanswered. For example, the *Richardson Recon Order* establishes a process by which a carrier can certify, at the end of the six-month implementation period, that it has not completed deployment because the PSAP is unable to receive and utilize E911 data elements. But the *Richardson Recon Order* is

---

stakeholders, and the incentives and constraints on those stakeholders." *Dale N. Hatfield, A Report on Technical and Operational Issues Impacting The Provision of Wireless Enhanced 911 Services*, WT Docket No. 02-46, at iii (filed Oct. 15, 2002) ("*Hatfield Report*").

[4] The Commission explained: "In our view, requiring a challenged PSAP to establish that these criteria have been met properly balances the parties' respective obligations and ensures both that PSAPs receive timely Phase I and Phase II service and that wireless carriers are not asked to commit resources needlessly." *Richardson Recon* at ¶13.

unclear whether a certification can be filed if the PSAP was not ready to receive the data elements until a date too late to permit the wireless carrier to complete the deployment within six months. The Commission also required carriers, as a prerequisite to certification, to have "completed all necessary steps toward E911 implementation that are not dependent on PSAP readiness," but the order is not clear whether "dependency" on PSAP readiness is from a technical perspective or a practical implementation perspective, such as whether data-dependent steps would be out-of-date and most likely be need to be redone once the PSAP is ready.

In addition, although the Commission would now toll the six-month implementation period if the wireless carrier makes a request for *Richardson* documentation within fifteen days of receiving a new request and the PSAP fails to respond within fifteen days, the Commission has not created a tolling mechanism for PSAP requests for which the wireless carrier has requested *Richardson* documentation beyond the fifteen day period and the PSAP has not responded. The only apparent alternative is certification, yet pursuing certification requires the carrier to undertake precisely the potentially ineffectual implementation efforts – thereby diverting resources from implementing other PSAP requests – that the *Richardson* criteria were designed to avoid.

Failure to resolve these issues will seriously hamper achievement of the Commission's ultimate goal: delivery of E911 service to the public nationwide.

---

[5] For example, what happens if a PSAP fails to provide this documentation until day 179; must the wireless carrier assume that documentation is forthcoming when the PSAP has not responded to its request?

II. BACKGROUND

A. The City of Richardson's Petition

The question of what constitutes a "valid" request for E911 service was raised by the City of Richardson in its *Petition for Clarification and/or Declaratory Ruling*.[6] The Commission's rules then specified that a wireless carrier's obligation to provide 911 service arises "only if the administrator of the designated Public Safety Answering Point has requested the services . . . and is capable of receiving and utilizing the data elements associated with the service, and a mechanism for the recovering the Public Safety Answering Point's costs of the enhanced 911 service is in place."[7] The City of Richardson's request stemmed from disagreement whether a PSAP must be "capable of receiving and utilizing" the E911 data elements *at the time of its request* to the mobile carrier, or whether a representation that the PSAP "will have the [necessary] upgrades completed *by the time the carrier delivers the service*"[8] is sufficient.

The Wireless Telecommunications Bureau ("Bureau") issued two public notices, first seeking comment generally on the Petition,[9] and subsequently requesting comment on whether the rule should be amended to clarify its meaning.[10] Specifically, the Bureau asked for "objective criteria a PSAP could be required to meet to demonstrate at the time that it makes a request that it has taken sufficient steps to ensure that it will be able to receive and utilize the E911 data prior to the delivery of service by the carrier."[11] The Bureau asked for "identifiable,

---

6 City of Richardson, Texas, *Petition for Clarification and/or Declaratory Ruling*, CC Docket No. 94-102, filed April 5, 2001 ("*Richardson Petition*").

7 47 C.F.R. §20.18 (j) (2001).

8 *Richardson Petition* at 2 (emphasis added).

9 *Wireless Telecommunications Bureau Seeks Comment on Request for Clarification or Declaratory Ruling Concerning Public Safety Answering Point Requests for Phase II Enhanced 911*, 16 FCC Rcd 7875 (2001).

10 *Wireless Telecommunications Bureau Seeks Further Comment on the Commission's Rules Concerning Public Safety Answering Point Requests for Phase II Enhanced 911*, 16 FCC Rcd 13670 (2001).

11 *Id.*

measurable criteria" and offered five such criteria for consideration. With the second public notice, the Bureau included an Initial Regulatory Flexibility Analysis.

After receiving comment, the Commission issued the *Richardson Order* amending its rules to establish the following conditions indicative of PSAP readiness:

> A PSAP will be deemed capable of receiving and utilizing the data elements associated with the service requested if it can demonstrate that it has ordered the necessary equipment and has commitments from suppliers to have it installed and operational within the six-month period . . . and can demonstrate that it has made a timely request to the appropriate local exchange carrier for the Automatic Location Identification (ALI) database upgrade necessary to receive the Phase II information.[12]

With this amendment, the Commission noted its intention to further three objectives: to promote the deployment of E911 services for the public, to avoid unnecessary expenditures by either the carrier or the PSAP, and to best guarantee that the PSAP would be ready to receive the E911 service at the time that the carrier's obligation to provide it ripened.[13]

B. Petitions for Reconsideration

The Commission received two petitions for reconsideration of the *Richardson Order*. Cingular Wireless LLC ("Cingular") objected to the Commission's interpretation of the "is capable" language to find a "valid" PSAP request absent a concurrent ability to receive and utilize the data.[14] It requested that the Commission reconsider that rule and instead require a PSAP to submit documentation of *present* readiness at the time of request. It further requested that the Commission establish an "expedited dispute resolution process" to resolve any readiness disagreements arising between PSAPs and carriers. As proposed, this process would allow

---

[12] 47 C.F.R. §20.18(j) (2002). The Commission provided alternative criteria where a PSAP is seeking to upgrade to Phase II service from Phase I service provided via NCAS technology.

[13] *See, e.g.*, *Richardson Order* at ¶1.

[14] Cingular Wireless LLC, *Petition for Reconsideration*, CC Docket No. 94-102, filed Dec. 3, 2001 ("*Cingular Recon Petition*").

fourteen days (after receipt of the request and documentation) during which a carrier could dispute a PSAP's readiness, and fourteen days during which the PSAP could respond with additional documentation. Cingular also requested the Commission to specify that the six-month period will be tolled during such "readiness disputes." Finally, Cingular challenged the *Richardson Order* as arbitrary and capricious and violative of the Administrative Procedure Act's ("APA") notice requirement.[15]

Sprint PCS did not challenge the Commission's interpretation of "is capable," but it did request that the PSAP's documentation include a demonstration that necessary ALI database upgrades will be completed within the six-month period, not simply that the PSAP has made a "timely request" for the upgrades as the rule allows.[16] Sprint also requested a tolling of the six-month implementation period while a PSAP produces documentation supporting its request.

The Bureau issued a public notice seeking comment on the petitions.[17] The notice summarized the two petitions and indicated "interested parties may file comments or oppositions responding to the petitions." It did not discuss or comment on the requests, nor did it offer any proposals. Nor did it include an Initial Regulatory Flexibility Analysis, as it had in its second notice seeking comment on the City of Richardson's Petition. The Federal Register publication of the notice indicated "the current action is taken to establish a record from which the

---

[15] 5 U.S.C. §§551 *et seq*. In particular, Cingular objected to the Commission's reliance on a bureau-issued public notice as constituting APA "notice of proposed rulemaking" and requested that the Commission "determin[e] whether the Wireless Telecommunications Bureau actually has delegated authority to issue notices of proposed rulemaking." *Cingular Recon Petition* at 15.

[16] Sprint PCS, *Sprint PCS Petition for Expedited Reconsideration and Clarification*, CC Docket No. 94-102, filed Nov. 30, 2001 ("*Sprint Recon Petition*").

[17] *Wireless Telecommunications Bureau Seeks Comment on Petitions for Reconsideration Regarding Public Safety Answering Point Requests for Phase II,* Public Notice, CC Docket No. 94-102, DA 01-2885 (rel. Dec. 12, 2001).

Commission can evaluate the merits of the petitions for reconsideration."[18] Because Federal Register publication did not occur until after the comment filing deadline specified in the public notice had passed, the bureau granted parties three days after publication to file.[19]

C. The Richardson Reconsideration Order

After receiving comment on the petitions, the Commission granted reconsideration and amended Section 20.18(j) purportedly to "provide additional clarification on the issue of PSAP readiness."[20] First, the Commission specified procedures for the request and production of the documentation predictive of PSAP's readiness. The Commission did not alter the type of evidence to be provided – the subject of the *Richardson Order* – but rather established a 15-day period during which a wireless carrier may request the documentation. The PSAP then has fifteen days to respond. The Commission addressed Sprint's tolling request by ruling that the six-month clock would be tolled after the second 15-day period, if the PSAP had not responded.

The Commission also provided for the tolling of the carrier's implementation deadline at the end of the six-month period, recognizing that "the rules did not expressly speak to situations in which a PSAP has made the upfront showing necessary to trigger Phase II implementation, but turns out to be incapable of receiving Phase II information at the end of the six-month period."[21] To address this situation, the Commission adopted "a procedure whereby wireless carriers that have completed all necessary steps toward E911 implementation that are not dependant on PSAP readiness may have their six-month obligation temporarily tolled."[22] The carrier is required to

---

18 *Petitions for Reconsideration Concerning PSAP Requests for Phase II Enhanced 911, Comments Invited*, 67 FR 1903 (Jan. 15, 2002).

19 *Id.* (setting comment date for Jan. 18, 2002).

20 *Richardson Recon Order* at ¶ 3.

21 *Richardson Recon Order* at ¶ 14.

22 *Id.* at ¶ 15.

file with the Commission a "certification" identifying (1) the basis for its conclusion that the PSAP will not be ready at the end of the six-month period, (2) all steps the carrier has taken toward implementation, (3) the reasons why the carrier cannot progress further until the PSAP becomes capable of receiving and utilizing the E911 data, and (4) the specific steps remaining to be completed by the carrier, the PSAP, and other parties.

There are a number of additional requirements and limitations. The carrier must provide notice and a copy of the proposed certification to the PSAP at least 21 days before filing. If the PSAP objects, the carrier "is unable to avail itself of the certification process, but must file with the Commission its proposed certification and the PSAP response."[23] Furthermore, a PSAP may challenge a certification at any time after filing. The certification must be in the form of an affidavit of an officer or director of the carrier, who, along with the carrier, will be personally "subject to Commission action" if the certification is "incorrect or incomplete." [24]

III. THE CERTIFICATION PROCESS MUST BE CLARIFIED TO FUNCTION AS INTENDED

The Commission's creation of a certification process reflects a recognition that a PSAP may not be ready at the end of the six-month implementation period, despite its best efforts and initial documentation of a "valid request" under the rules. Though "predictive" of preparedness, the *Richardson* validity criteria are not a guarantee. In the *Richardson Recon Order*, the Commission acknowledged that the existing rules placed carriers in an "impossible position": "under a literal reading of our rules, they are obligated to complete E911 Phase II implementation and begin delivering location information to the PSAP within the six-month

[23] *Id.* at ¶ 16.

[24] *Id.* at ¶ 17.

timeframe, but they cannot fulfill this obligation until the PSAP is prepared to receive the Phase II data."[25]

In response, the Commission decided that "where a wireless carrier that has taken all ['necessary steps toward E911 implementation that are not dependent on PSAP readiness'] determines that a PSAP will not be capable of receiving and utilizing E911 information at the end of the six-month implementation period, it may, after consultation with the PSAP, file a certification to that effect with the Commission."[26]

T-Mobile agrees that a form of tolling is appropriate in these circumstances but believes that the new procedure has several ambiguities that need clarification and also contains several illogical and unproductive requirements. In addition, the *Richardson Recon Order* appears to suggest that carriers will be held liable – and will not be entitled to tolling – where the inability to complete the delivery of service is due to delay on the part of the LEC in delivering facilities on the carrier's side of the demarcation point. LEC delay has been raised repeatedly throughout this docket, and it must be addressed.[27]

A. Certification Should Apply to All Requests that Cannot Be Completed Within Six Months Due to PSAP Lack of Readiness

The certification procedure does not clearly encompass the situation in which implementation is delayed due to the PSAP's lengthy inability to receive and utilize E911 data, but the PSAP is nonetheless able to receive and utilize such data on day 180. The Commission should clarify that in such situations, *i.e.,* those in which a PSAP gains the ability to receive and utilize E911 data elements before the six-month deadline but does so sufficiently close to the

---

25 *Richardson Recon Order* at ¶ 14.

26 *Id.* at 15.

27 For example, Dale Hatfield last year reported to the Commission that "the incumbent local exchange carriers play a critical role in the deployment of wireless E911" but "their responsibilities for supporting wireless E911 deployment were not well defined." (*Hatfield Report* at iii).

deadline that the wireless carrier is unable reasonably to complete its implementation within the remaining time, a wireless carrier may file a certification and have ninety days from the date of PSAP notification (that it is able to receive and utilize the data, to complete the implementation. Indeed, it would be arbitrary and capricious to refuse to make this clarification.

Section 20.18(j)(4) makes absolutely clear that if a PSAP is not capable of receiving and utilizing E911 data elements on the day the six-month implementation period expires (day 180), the wireless carrier may file a certification. Assuming the carrier meets the other requirements for such a certification, even if the PSAP notifies the wireless carrier the next day (*i.e.*, day 181) that it is capable of receiving and utilizing E911 data elements, the wireless carrier will have ninety days from the receipt of the PSAP's written notice to complete implementation of the PSAP's request. This makes sense because the wireless carrier must complete implementation steps that, from a practical perspective, the wireless carrier either could not or should not have undertaken prior to the PSAP becoming ready to receive and utilize such data.[28]

By contrast, if Section 20.18(j)(4) is interpreted as *only* permitting certifications when a PSAP is unable to receive and utilize E911 data elements on day 180, then prior to the expiration of the six-month period wireless carriers are subject to an ever-diminishing time period for implementation once the PSAP becomes ready to receive and utilize such data elements. If, for example, a PSAP becomes ready to receive and utilize E911 data on day 170, the rules require the wireless carrier to complete the deployment within approximately ten days of the PSAP becoming ready (day 180). There is no rational basis – and certainly no basis in the record – for the Commission to conclude that a wireless carrier reasonably needs ninety days to complete an E911 deployment when the PSAP becomes ready to receive and utilize E911 data on day 190,

but requires only ten days if the PSAP is ready on day 170. Drawing such a line would be arbitrary in the extreme.

It is important to recognize that clarifying Section 20.18(j)(4) as suggested will not force the Commission to make fact-specific judgments about whether a wireless carrier had a reasonable amount of time after the PSAP became ready to receive and utilize E911 data elements before the end of the six-month implementation period. The Commission previously determined that ninety days is a reasonable implementation period following the PSAP notifying the wireless carrier that it has become ready to receive and utilize E911 data. The Commission can apply the same ninety-day rule to situations in which the PSAP becomes ready prior to the expiration of the six month deadline: if fewer than ninety of the 180 days remain when the PSAP notifies the wireless carrier that it is ready, the wireless carrier has until the 90th day after notice to complete the implementation. As a result, if a PSAP notifies a wireless carrier on day 150 that it is ready to receive and utilize E911 data elements, the wireless carrier would have approximately sixty days after the end of the six-month implementation period (ninety days after day 150) to complete the deployment. This is the only rational and non-arbitrary interpretation of new Section 20.18(j)(4) available to the Commission.

B. The Commission Should Clarify that Certification Procedures Apply to All PSAP Failures to Complete Steps Necessary to An E911 Deployment

New Section 20.18(j)(4) states that a wireless carrier may file a certification regarding PSAP readiness if the PSAP "is not capable of receiving and utilizing the data elements associated with the service requested." It is unclear whether a PSAP's failure to provide information necessary for a wireless carrier to complete its deployment falls within the scope of

---

[28] T-Mobile agrees that, in most situations, the 90-day implementation period provided by new Section 20.18(j)(4)(x) should be adequate, and that those few cases where ninety days will not be adequate can be addressed through waivers.

the certification procedures. The Commission should clarify that failure to provide necessary information is an appropriate subject for wireless carrier certifications.

In order for a wireless carrier to provide E911 service, the PSAP must provide certain information. A PSAP first must provide the location of the selective router.[29] After the wireless carrier supplies the PSAP with coverage maps and cell site datafiles, the PSAP must return instructions for the proper routing of E911 calls. Absent routing instructions, the carrier does not know which PSAP has jurisdiction to send emergency responders to a particular cell site or (x, y) location. This is not an insignificant problem. In T-Mobile's experience, some delays in receiving routing instructions have stretched out over many months.

A PSAP's failure to provide this essential information is an appropriate basis for certification. A PSAP is not truly ready to receive and utilize E911 data if it has not told the wireless carrier how it wants that data to be routed in order to be usable. Moreover, this information is solely within the PSAP's control, and not within the wireless carrier's control.

C. Certification Should Not Require Completion of Implementation Steps That Would Have to Be Redone After A PSAP Is Ready

T-Mobile requests that the Commission clarify that before a carrier may avail itself of the certification procedure, it must have completed all steps that are both possible and would not later have to be redone in its implementation, *given the state of PSAP preparedness at the time of the certification filing*. Certainly actions that are physically dependent upon additional action by the PSAP cannot be completed (*e.g.,* a carrier cannot provision the gateway mobile location center ("GMLC") with cell site locations until the PSAP provides routing instructions.) But the rule provides that in order "to be eligible to make a certification, the wireless carrier must have

[29] Third party information sources provide locations for some selective routers, although they are not always accurate.

completed all necessary steps toward E911 implementation that are not dependent on PSAP readiness."[30] Depending on how the Commission interprets "dependent," this could force carriers to engage in unnecessary and wasteful actions, with no offsetting public benefit.

For example, a carrier is capable of loading cell site locations into the GMLC and performing database translations even if a PSAP is not ready to receive and utilize E911 data elements. However, this work is time-sensitive. If there is a delay of several weeks or more in the PSAP's readiness, these steps would have to be redone before testing and the delivery of service. When cell sites are loaded into the GMLC, they must reflect the network design. In a dynamic network, especially a growing wireless network, the design is in constant flux due to the addition sites.

Recognition that some steps are not prudently performed until after the PSAP has become ready to receive the E911 data elements will not weaken the wireless carrier's incentive to do all that is rationally and feasibly possible to implement the request prior to certification. Because Section 20.18(j)(4)(x) sets a ninety-day period for the delivery of service once a PSAP advises the carrier of its readiness after certification, carriers cannot idly sit by, delaying implementation efforts until a PSAP establishes actual preparedness. The ninety-day period itself assures that carriers and PSAPs will work on implementation in parallel, and in concert. The end game – from everyone's perspective – is the delivery of E911 service as soon as possible, without unnecessary cost and effort. That objective is best served by allowing carriers to defer implementation steps until after the PSAP is ready if the carrier would otherwise have to perform those implementation steps twice.

---

[30] 47 CFR §20.18(j)(4)(vi). In addition, the certification must document (1) "each of the specific steps the carrier has taken to provide the E911 service requested," and (2) "the reasons why further implementation efforts cannot be made until the PSAP becomes capable of receiving and utilizing the data elements associated with the E911 service requested." 47 C.F.R. 20.18(j)(4)(ii)(B), (C).

D. Carriers Should Be Permitted to Serve the Requesting Entity Rather Than the "Affected PSAP" When A PSAP Has Designated A Representative

Section 20.18(j)(4)(i) requires a carrier intending to file a certification to give written notice of its intent to file "to the affected PSAP."[31] T-Mobile requests clarification that carriers should notify the requesting entity, which may or may not be the affected PSAP.

Frequently E911 implementation is coordinated on a state- or countywide basis. For example, the Tarrant County, Texas 911 District has administered E911 implementation for 38 PSAPs. Rhode Island, Delaware, Minnesota and Oregon have been coordinated statewide. In these cases, the requesting entity is the responsible entity, and T-Mobile interacts with that entity rather than individual PSAPs. Indeed, where implementation is managed this way, personnel at the individual PSAP may not know the status of implementation or the source of delay, and direct contact by carriers may cause confusion. For precisely these reasons, some requesting entities have explicitly requested that carriers not have direct interaction with the PSAPs. Where PSAPs have chosen to have a central agency coordinate implementation, and to have carriers work through that agency, T-Mobile believes that it is most appropriate and effective to respect that designation.

In addition, as a practical matter, T-Mobile does not necessarily know the identity of all of the PSAPs underlying a request until the requesting entity provides routing instructions, which may not occur prior to the end of the six-month period. Even at that point, T-Mobile does not receive contact information for every PSAP as a matter of course. For this reason alone, wireless carriers should be required to serve only the PSAP or other entity actually making the request.

[31] 47 C.F.R. §20.18(j)(4)(i).

E. The Notice of Intent to File and the Three-Week Pre-Filing Objection Period Serve No Purpose Because PSAPs May Object After Certification Is Filed

Whichever entity is served – the PSAP or the requesting entity – the *Richardson Recon Order* requires that it be given notice of the intended certification and three weeks to respond. This raises several questions about the rationale for the advance notice requirement. As an initial matter, there is a discrepancy between the text of the order and the rules concerning the content of the notice. Although the text of the order specifies that the wireless carrier must notify the affected PSAP of its intent to file the certification "and simultaneously provide the PSAP with the text of the certification to be filed with the Commission,"[32] the rule requires notification only of the carrier's intent.[33]

Furthermore, it is unclear why the three-week pre-filing objection period is necessary at all. The rule provides that a PSAP may object to the certification after it has been filed with the Commission, and the rule render tolling unavailable to any carrier whose certification is inaccurate. The Commission should either allow PSAPs to object after receiving a draft, or permit post-certification challenges, but not both.

Again, while it is wise for carriers to work closely with the requesting entity whenever a certification may be necessary, the responsibility of the carrier for accurate certification, and the potential loss of the tolling protection, provides the carrier with sufficient incentive to use the certification process judiciously. Intricate rules mandating the content of notice, and establishing both pre-and post-filing objection periods, unnecessarily interfere with established and

---

[32] *Richardson Recon Order* at ¶ 16.

[33] As a matter of practice, it may be most effective to serve the requesting entity with the exact language of the proposed certification. Nonetheless, there is no need for a rule governing administrative matters best left for carriers, such as whether the draft certification or a letter containing information on the carrier's understanding of the PSAP's status would be most instructive.

cooperative working relationships between the carriers and the PSAPs. The Commission has not established the need for these additional procedures and paperwork.

F. The Commission Must Rule On Disputed Certifications

Presumably the Commission, or the Wireless Telecommunications Bureau on delegated authority, will rule on the legitimacy of any contested certification. Accordingly, the Commission should clarify that objection by the PSAP does not nullify the certification, but rather that the certification, and therefore tolling of the deadline, is not automatically granted.[34]

IV. WHILE INITIAL TOLLING DURING A PSAP'S PRODUCTION OF DOCUMENTATION IS EQUITABLE, THE RULE AS ADOPTED DOES NOT SERVE ITS STATED PURPOSE

As adopted in the *Richardson Recon*, the new tolling rule provides as follows:

> Where a wireless carrier has served a written request for documentation on the PSAP within 15 days of receiving the PSAP's request for Phase I or Phase II enhanced 911 service, and the PSAP fails to respond to such request within 15 days of such service, the six-month period for carrier implementation specified in paragraphs (d), (f), and (g) of this section will be tolled until the PSAP provides the carrier with such documentation.[35]

A. The Commission Should Permit Tolling for Current Pending Requests

Although the Commission adopted tolling where a PSAP fails to respond to a wireless carrier's request for *Richardson* documentation made within 15 days of the wireless carrier's receipt of the PSAP's request for E911 service, the Commission did not address whether tolling would be available for pending PSAP requests for which wireless carriers have requested *Richardson* documentation but have not received a complete response. The Commission should clarify that tolling is available if the PSAP failed to provide complete

---

[34] The order states that "If a carrier receives an objection from the PSAP, *it is unable to avail itself of the certification process*. . . . "*Richardson Recon Order* at ¶16 (emphasis added). This misleadingly suggests that a PSAP's objection acts as an absolute veto.

[35] 47 C.F.R. §20.18(j)(3) (2003).

documentation in response to an outstanding wireless carrier request within fifteen days of the effective date of the *Richardson Recon Order*. Alternatively, the Commission should permit wireless carriers to renew existing requests for *Richardson* documentation and apply tolling to any requests for which the PSAP fails to provide a complete response within fifteen days.

There is no rational basis for the Commission to apply tolling only to new PSAP requests. The purpose of the Commission adopting the *Richardson* criteria was to "help ensure that none of the parties expends resources unnecessarily."[36] Yet when a wireless carrier must move forward to implement a pending PSAP request where a PSAP has failed to provide documentation, that is exactly what will occur.

The certification process adopted in the *Richardson Recon Order* is not an adequate substitute. Certification addresses the situation in which a PSAP meets the (relaxed) criteria to trigger the running of the six-month implementation period, but still is not able to receive and utilize E911 data elements in time for the wireless carrier to complete the deployment within the six-month period. Once the PSAP triggers the implementation period, the wireless carrier may be required to undertake pointless implementation steps, such as ordering trunks that will simply lie idle while the wireless carrier incurs unnecessary charges.

PSAP failure to return *Richardson* documentation means that the six-month period should be tolled, regardless of whether the PSAP request is new or pending. To hold otherwise eviscerates *Richardson*, essentially erasing it from the rules for all pending requests. The Commission has not provided a rational basis for such action, which in any event would be impermissible retroactive rulemaking. To give effect to the *Richardson Order*, the Commission should toll the running of the six-month period for all

---

[36] *Richardson* at ¶ 11.

pending requests for which the PSAP did not provide *Richardson* documentation within fifteen days of the effective date of the *Richardson Recon Order*. Alternatively, it should allow the wireless carrier to renew pending requests for *Richardson* documentation, and then toll the running of the six-month implementation period for all PSAP requests for which complete *Richardson* documentation is not supplied fifteen days thereafter.

B. The Commission Should Permit Tolling Regardless of When the Wireless Carrier Requests the *Richardson* Documentation

As adopted, the tolling rule bears no resemblance to the proposals offered by Cingular and Sprint.[37] The proposals for initial tolling stemmed from a desire not to penalize a carrier with a reduced implementation period simply "because a PSAP requires additional time to provide documentation that the FCC has determined is appropriate."[38] The changes wrought by the Commission on reconsideration are so significant that they gut the original *Richardson* rule, redirecting its focus away from assuring that a PSAP will be ready to receive the carrier's location data at the end of the 6-month implementation period. Instead, in the guise of "procedural guidelines for requesting documentation predictive of readiness," the changes substantially limit a carrier's ability to respond efficiently (by redirecting resources) when it believes, in good faith, that a PSAP has not made a "valid request."

For example, the rule forecloses a carrier's request for documentation – or, more precisely, any meaningful response to a lack of such documentation – after the first 15 days

---

[37] As discussed above, Cingular sought a process for resolving disputes relating to the validity of a request. It requested two things – that the PSAP be required to submit its documentation simultaneously with its request, and that the six-month period for responding to a valid PSAP request be tolled pending resolution of any dispute. Both requirements were geared toward protecting the integrity of the six-month implementation period by ensuring that the clock started only with the substantiation of a valid request. Thus, Cingular's proposed 14-day period for a carrier to dispute a PSAP's preparedness was responsive to a presumed production of the necessary documentation at the time of request. The 14-day period had nothing to do with limiting a wireless carrier's right to ask for the documentation or to have its implementation tolled during PSAP delay in producing the documentation.

[38] *Sprint Petition* at (i).

following a request. If a PSAP's request is not valid – for example, because it does not have a commitment on delivery of necessary CPE – that request is invalid regardless of whether the carrier requested documentation on day 14 or day 17. Yet if the latter, the rule requires the carrier to take "all necessary steps" to fully implement the E911 service, potentially arriving at day 180 prepared to deliver service to a PSAP with no ability to receive it.[39] This creates an absurd prioritization of the carrier's resources, quite contrary to the Commission intent "to ensure 'that carriers are not required to make unnecessary expenditures in response to a PSAP that is not ready to use the E911 information.' "[40]

There is no need to cut off the carrier's ability to request the documentation to which it is entitled. And by allowing a carrier to raise and respond to issues of validity when warranted by the facts, the Commission need not excuse any perceived delay on the part of the wireless carrier. Tolling would not be granted retroactively to day 1, but only for the period beyond 15 days taken by the PSAP to produce the required documentation of preparedness. Accordingly, if a carrier requests documentation on day 60, and the PSAP responds on day 120, the clock would re-start at day 75. In such a case, it is reasonable for the wireless carrier to bear the burden of having delayed its request, but it is irrational to ignore the PSAP's delay in producing documentation that the Commission has made requisite to validity and to which the carrier is entitled. Arbitrarily limiting availability of tolling appears punitive and serves no function related to its stated purpose.

---

[39] Unable receive tolling under the rule, the carrier's only resort would be to seek certification at the end of the six-month period. One condition of certification is the completion of "all necessary steps" that are not dependent on PSAP readiness. 47 C.F.R. §20.18(j)(4)(vi).

[40] *Richardson Order* at ¶ 4, *citing Second Memorandum Opinion and Order*, 14 FCC Rcd 20850, 20879 (1999).

C. The Commission Should Clarify Treatment of Partial and Insufficient Responses

To remove any potential for ambiguity, the Commission should clarify that a response that does not fully document the PSAP's satisfaction of the applicable *Richardson* criteria is not sufficient to avoid tolling. In order to implement the *Richardson* criteria and to have those criteria perform their intended function of screening requests that are likely to be ready from those that are not, the rule cannot permit a partial response (*i.e*., one addressing some, but not all, of the *Richardson* criteria) or an insufficient response (*i.e.,* one that responds to each of the *Richardson* criteria, but does not clearly document the PSAP's ability to receive and utilize E911 data elements) to avoid tolling. Accordingly, a partial response should be treated as a failure to respond and the request deemed invalid. If a PSAP has filed a complete response that the carrier believes to be inadequate, the carrier should be required to inform the PSAP and the implementation tolled. Pending clarification of validity, it serves no purpose to require the wireless carrier to commit its resources to active deployment.

V. THE COMMISSION SHOULD PERMIT TOLLING WHEN THE CARRIER CANNOT COMPLETE IMPLEMENTATION WITHIN SIX MONTHS DUE TO THIRD PARTY IMPLEMENTATION ISSUES

The Commission has limited certification to redress only those sources of delay falling on the PSAP's side of the demarcation point. Nonetheless, the Commission has routinely remarked that successful implementation depends on the efforts of multiple parties – not only the carrier and PSAP, but also equipment manufacturers, the LEC and in some cases an independent emergency services provider (*i.e.,* the entity running the ALI database on behalf of the LEC, such as Intrado) and possibly an IXC. To date, the Commission has failed to address the need for tolling when an impediment to implementation lies on the carrier's side of the demarcation point, but responsibility rests with a third party outside of the wireless carrier's control.

Whether or not it uses a parallel certification process, the Commission should acknowledge that carriers are put in a similarly "impossible position" if their implementation is disrupted by the failure of an essential third party to provide necessary services or equipment. LEC issues can fall on either side of the demarcation point, not just the PSAP's side, as would be covered by the certification process. For example, T-Mobile has encountered substantial delays in the provisioning of trunks, with completion of trunk orders sometimes consuming fully half of the six-month implementation period. When a wireless carrier promptly orders a trunk from a LEC under tariff, it should not be held liable for failure to meet the six-month implementation period where that failure is attributable to a substantial delay in trunk delivery. Similarly, the certification process in the *Richardson Recon Order* does not encompass the situation where T-Mobile cannot complete a deployment because it cannot obtain telephone numbers to be used as pANIs from the LEC (such as when T-Mobile is not entitled to obtain numbers in its own right because it does not offer retail service, but only roaming coverage, in that LEC's area).

Unfortunately the *Richardson Recon Order* suggests a form of strict liability in these cases: "a carrier's certification cannot be based, either directly or indirectly, on circumstances *attributable to its own failure to comply* with the Commission's E911 rules, *such as nonperformance or delays attributable to its own vendors, manufacturers, or third party service providers*."[41] The Commission should clarify that tolling is available for at least some third party failures – those beyond the wireless carrier's control – and should establish an appropriate procedure whereby carriers can notify the Commission and PSAPs of such events.

[41] *Richardson Recon Order* at ¶ 21 (emphasis added).

VI. THE NEW RULES ARE PROCEDURALLY INFIRM BECAUSE THEY WERE ADOPTED WITHOUT NOTICE AND COMMENT

A. Because the New Rules Affect Rights and Obligations, They Cannot Be Deemed "Clarifications" Merely Illustrative of Original Intent

The Administrative Procedure Act requires that when an agency undertakes to adopt or substantively amend its rules, "general notice of proposed rulemaking shall be published in the Federal Register," and "the notice shall include either the terms or substance of the proposed rule or a description of the subjects and issues involved."[42] In addition, the agency must provide interested persons an opportunity to comment on the proposed rules.[43] Adequate notice and comment is essential to the integrity of the administrative process. Notice promotes fairness, comment in response to notice improves the quality of reasoning and decision making, and the development of a full record enhances judicial review.

The Commission has characterized its rule amendments in the *Richardson Recon Order* as "additional clarification" and "procedural guidelines."[44] T-Mobile disagrees. Classifying the amendments as such, the Commission invokes a line of cases distinguishing rulemaking, which is subject to the APA procedures, and mere clarification, which is not. Indicating that agencies have the authority, in some instances, to clarify rules without issuing a new notice of proposed rulemaking and engaging in a new round of notice and comment, the court of appeals recently illuminated the distinction for the Commission. "Whereas a clarification may be embodied in an interpretive rule that is exempt from notice and comment requirements, new rules that work

---

42 5 U.S.C. § 553(b)(3).

43 5 U.S.C. § 553(c).

44 *Richardson Recon Order* at ¶ 2. Although the Commission addressed the sufficiency of notice for the rule amendments adopted in the *Richardson Order*, it did not consider whether it provided sufficient notice of the changes adopted in the *Richardson Recon Order*.

substantive changes in prior regulations are subject to the APA's procedures."[45] Furthermore, "an agency's imposition of requirements that affect subsequent agency acts and have a future effect on a party before the agency triggers the APA notice requirement." [46]

While dressed as procedural guidelines, the rule amendments adopted in the *Richardson Recon Order* mandate precise procedures with significant consequences. They impose new obligations and change potential liabilities, working "substantive changes in prior regulations." If a carrier does not request documentation of the PSAP's preparedness within fifteen days, it loses eligibility for initial tolling, even if the PSAP does not, in fact, have a "valid request" within the meaning of the rule. For tolling of the six-month deadline, a carrier must certify that the PSAP is unable to receive and utilize the E911 data and ascertain the reason, at risk of personal penalty to the officer signing the certification.[47] These rules do not "merely illustrate the Commission's original intent" regarding appropriate documentation for a "valid request," but rather "change the rules of the game"[48] by carefully delineating circumstances in which a carrier's obligation will or will not be tolled. As such, the Commission was required to provide notice and opportunity for comment on the "terms or substance of the proposed rule."[49]

B. The Commission Gave No Notice of the Changes Ultimately Adopted

The Commission did nothing more than put the Sprint and Cingular petitions on public notice.[50] The informality of this act is apparent in the fact that the document at issue was a public notice, not a notice of proposed rulemaking, and it was issued by the Wireless

---

45 *Sprint v. FCC*, 315 F.3d 369, *12 (D.C. Cir. 2003) (internal citations omitted).

46 *Id.*at *11.

47 47 C.F.R. § 20.18(j)(4)(iii).

48 *Sprint v. FCC*, 315 F.3d at *13.

49 5 U.S.C. § 553(c).

50 The Commission summarized the petitions and indicated that "interested parties may file comments or oppositions." It did not analyze any of the requests or propose to adopt, dismiss or modify them.

Telecommunications Bureau, not the Commission. Under the Commission's delegation of authority, the Bureau cannot adopt rules or initiate rulemakings.[51] In *Sprint v. FCC*, the court addressed similar circumstances in which "the Commission purported to act through the Common Carrier Bureau."[52] Noting that the bureau "lacks the authority under the Commission's regulations to issue notices of proposed rulemaking," the court concluded: "Sprint, therefore, was not on notice that the Commission was proposing to 'revise' its initial rule."

Nor were the Commission's actions in the *Richardson Recon Order* within the scope of any initial notice of proposed rulemaking, because no such NPRM was ever issued. The Commission adopted the rules in the *Richardson Order* on the basis of a bureau-issued public notice, which although published in the Federal Register was not an NPRM. The Bureau lacked the authority to issue a NPRM, and the Commission never did so.

If the Commission is to rely on the scope of the Sprint and Cingular petitions alone, they are wholly inadequate to support the changes adopted.[53] As discussed above, Cingular's proposed fourteen-day period for disputing readiness was to follow the carrier's receipt and review of the PSAP's readiness documentation at the time of the request, and the limitation pertained only to the carrier's ability to challenge the sufficiency of the documentation. Cingular contemplated resolution of any disagreement over the sufficiency of the PSAP's documentation in an expedited procedure before the Commission. Its tolling proposal, in turn, was to toll the six-month clock while the parties resolved the dispute. This bears only coincidental resemblance to a fifteen-day limitation on the carrier's ability to (meaningfully) ask for required documentation, and a tolling of the clock where the PSAP required more than fifteen days to

---

51 *See* 47 C.F.R. § 0.331(d).

52 *Sprint v. FCC*, 315 F.3d at *14.

produce the documentation. While Sprint's petition included a request for tolling while a PSAP assembles its documentation, nowhere did it suggest that the right to tolling should be restricted to those requesting documentation in the first fifteen days. Neither petition discussed a certification procedure to address a PSAP's actual inability to receive and utilize the data at the end of the six-month period.

Nor can the follow-on public notice issued after comments were filed on the City of Richardson's petition and before adoption of the *Richardson Order* be deemed sufficient notice to support the rule changes adopted in the *Richardson Recon Order*. The bureau sought comment only on what criteria a PSAP might satisfy to demonstrate that it would be ready to receive and utilize E911 data at the end of the six-month implementation period. It did not seek comment on whether it should limit a carrier's right to seek documentation or to respond appropriately if the documentation did not validate the request. Nor did it propose or seek comment on tolling a carrier's obligation at the end of the six-month period.

T-Mobile has suffered prejudice from the Commission's violation of the APA. Had the Commission given notice of its contemplated certification procedure and tolling mechanism, T-Mobile could have raised its concerns with those proposals prior to adoption of the *Richardson Recon Order*. In turn, full airing of those concerns would have helped the Commission draft a less ambiguous and more complete order.

VII. CONCLUSION

Because the Commission failed to provide for notice and comment, and because some of the rules will only frustrate the Commission's intent, while others lack a "rational connection

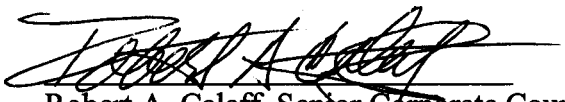
---

[53] The Commission cannot "bootstrap" notice from the comments of others. *See, e.g., MCI Telecomm. Corp. v. FCC,* 57 F.3d 1136 (D.C. Cir. 1995).

between the facts found and the choice made,"[54] the Commission should grant this Petition for Clarification and Reconsideration.

Respectfully submitted,

Jim Nixon
Robert A. Calaff
T-MOBILE USA, INC.



Robert A. Calaff, Senior Corporate Counsel
Governmental and Industry Affairs

401 9th Street, N.W.
Suite 550
Washington, D.C. 20004
202-654-5900

[54] *Motor Vehicles Mfrs Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (internal citations omitted).

CERTIFICATE OF SERVICE

I, Karen R. Stephens, do hereby certify that a copy of the foregoing Petition for Clarification and Reconsideration was served this 21st day of February 2003, via electronic transmission or First Class mail (*), upon the following parties:

John Muleta, Bureau Chief
Wireless Telecommunications Bureau
Federal Communications Commission
jmuleta@fcc.gov

James D. Schlichting, Deputy Bureau Chief
Wireless Telecommunications Bureau
Federal Communications Commission
jschlich@fcc.gov

Blaise Scinto, Acting Chief
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
bscinto@fcc.gov

Patrick Forster
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
pforster@fcc.gov

Dan Grosh
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
dgrosh@fcc.gov

James R. Hobson*
Miller & Van Eaton, PLLC
Counsel to National Emergency Number Association
jhobson@millervaneaton.com

Robert M. Gurss*
Shook, Hardy & Bacon, LLP
Counsel to Association of Public-Safety Communications Officials-International, Inc.
rgurss@shb.com

FCC Secretary
Electronic Comment Filing System
CC Docket No. 94-102

Peter G. Smith*
Nichols, Jackson, Dillard, Hager & Smith, LLP
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

Sylvia Lesse*
Kraskin, Lesse & Cosson, LLP
Counsel to Rural Cellular Association
2120 L Street, NW
Suite 520
Washington, D.C. 20037

John A. Prendergast *
Counsel to North Dakota Network Co.
Blooston, Mordkofsky, Dickens, Duffy & Prendergast
2120 L Street, NW
Suite 300
Washigton, D.C. 20037

Sharon J. Devine*
Counsel to Qwest Corporation
1020 19th Street, NW
Suite 700
Washington, D.C. 20036

John T. Scott, III*
Vice President and Deputy General Counsel
Regulatory Law
Counsel to Verizon Wireless
1300 I Street, NW
Suite 400W
Washington, D.C. 20005

J.R. Carbonell*
Counsel to Cingular Wireless, LLC
5565 Glenridge Connector
Suite 1700
Atlanta, Georgia 30342

Lawrence W. Katz*
Counsel to Verizon telephone companies
1515 North Court House Road
Suite 500
Arlington, Virginia 22201

Luisa L. Lancetti*
Vice President
Sprint PCS
401 9th Street, NW
Suite 400
Washington, D.C. 20004

Ronald L. Ripley*
Vice President and
Senior Corporate Counsel to
Dobson Communications Corporation
14201 Wireless Way
Oklahoma City, Oklahoma 73134

Michael F. Altschul*
Senior Vice President & General Counsel
Cellular Telecommunications & Internet
Association
1250 Connecticut Avenue, NW
Suite 800
Washington, D.C. 20036

Robert S. Foosaner*
Senior Vice President – Government Affairs
Counsel to Nextel Communications, Inc.
2001 Edmund Halley Drive
Reston, Virginia 20191

* served via First-Class Mail

/s/
Karen R. Stephens